

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

**MARVIN ANTONIO SUTTON JR,**

**Plaintiff,**

**v.**

**Case No. 6:20-cv-1962-Orl-18GJK**

**UNITED STATES SOCIAL  
SECURITY ADMINISTRATION,**

**Defendant.**

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**REPORT AND RECOMMENDATION**

This cause came on for consideration on the Notice of Removal, filed on October 22, 2020, by the defendant Social Security Administration. Doc. No. 1. In the County Court of the Seventh Judicial Circuit in and for Volusia County, Florida, pro se plaintiff Marvin Antonio Sutton Jr. filed a “Statement of Claim” (the “Statement”). Doc. No. 1-1 at 5-7. In the Statement, Plaintiff wrote the following to explain his reason for filing suit:

Refusal to give me my income on my irs [sic] account information they are illegally taking my food benefits and my income is more than they can prove I wanna get into details and my posses[s]ions were stolen I know the locations. And the banks they are involved as well as the suspects that are totally against me. There [sic] playing childish games on my phone.

*Id.* at 5-6. Plaintiff requests a judgment of more than \$8,000. *Id.* at 5.

The Statement violates Federal Rule of Civil Procedure 8, as it does not contain a short and plain statement that establishes a right to relief. Therefore, it is recommended that the Statement be dismissed without prejudice.

Ordinarily, a pro se party should be given one opportunity to file an amended complaint that states a claim within this Court's subject-matter jurisdiction on which relief could be granted. *Troville v. Venz*, 303 F.3d 1256, 1260 n.5 (11th Cir. 2002). In an amended complaint, Plaintiff must clearly allege a short and plain statement that establishes a right to relief, including the legal basis of the cause of action (whether a constitutional provision, treaty, statute, or common law). Plaintiff should not include argument in the amended complaint.

Based on the forgoing, it is **RECOMMENDED** that the Court:

1. **DISMISS** the case without prejudice; and
2. Grant Plaintiff leave to file an amended complaint within a time established by the Court, with the warning that failure to file an amended complaint within the time permitted by the Court will result in dismissal of the case without further notice.

#### **NOTICE TO PARTIES**

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. Failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. 11th Cir. R. 3-1.

**RECOMMENDED** in Orlando, Florida, on October 26, 2020.

  
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GREGORY J. KELLY  
UNITED STATES MAGISTRATE JUDGE

Copies to:  
Unrepresented party  
Counsel of Record